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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROBERT CLICK and MARIE CLICK,

Plaintiffs,

vs.

DORMAN LONG TECHNOLOGY,
LIMITED et al.,

Defendants.

USDC Case No: C 06 1936 PJH

**FURTHER STIPULATION AND
~~PROPOSED~~ ORDER EXTENDING
TIME TO RESPOND TO
UNVERIFIED COMPLAINT FOR
DAMAGES, AND CONTINUING
CASE MANAGEMENT
CONFERENCE AND RELATED
DATES AND REQUESTING
IMMEDIATE ASSIGNMENT TO A
JUDGE MAGISTRATE FOR
MEDIATION**

1 This stipulation is made by and between plaintiffs Robert Click and Marie Click
2 (“plaintiffs”) and defendant Dorman Long Technology Limited (“DLT”), by and
3 through their respective attorneys of record, The Arns Law Firm and Thelen Reid &
4 Priest, LLP.

5 **RECITALS**

6 The stipulation is based on the following facts:

7 1. DLT was served with plaintiffs’ Unverified Complaint for Damages and
8 Demand for Jury Trial (“the Complaint”) on or about April 27, 2006.

9 2. At the time DLT was served with the Complaint, DLT was already a party
10 defendant to plaintiffs’ first complaint, Case No. 05-03037 PJH.

11 3. The Court granted DLT’s motion to dismiss on September 6, 2006,
12 finding that the first complaint, Case No. 05-03037 PJH, was duplicative of the
13 Complaint in the subject action.

14 4. The parties previously stipulated that DLT had until December 18, 2006 to
15 answer the Complaint in the subject action.

16 5. The parties agree that DLT is granted a further extension up to and
17 including January 25th, 2007 to answer the Complaint in the subject action.

18 6. This case was originally mediated with Michael Traynor as the assigned
19 mediator on September 19, 2006. This mediation was successful in that a proposed
20 settlement was offered by defendant DLT that plaintiff would be willing to accept.

21 7. However, since plaintiff is covered under the Longhore and Harbor
22 Workers Act, the Longshore carrier must approve any third party settlement in writing
23 before plaintiff is allowed to settle the case. (*See* 33. U.S.C. §935.) Therefore, plaintiff
24 cannot fully settle the case without the permission and agreement of this carrier, which
25 is National Union Fire Insurance Company, represented by the law offices of
26 ADELSON, TESTAN, BRUNDO & POPALARDO.

1 8. As soon as the proposed settlement was made by defendant DLT, counsel
2 for plaintiff immediately contacted Michael Jonescu at the ADELSON office seeking
3 resolution of the lien held by National Union Fire Insurance Company. Counsel for
4 plaintiff called this office a number of times to follow up, and obtained no response.
5 Counsel for plaintiff was then was told that Mr. Jonescu was no longer with the firm
6 and was told to speak to Mr. John Rutan, who was taking over the file but did not know
7 anything about the case. Upon further calls to the office, counsel for plaintiff was told
8 that Mr. Davil Vasquez was handling the matter. Mr. Vasquez has been helpful in
9 responding to the issue, but after a month, appears no closer to obtaining settlement
10 authority from his carrier than the others.

11 9. Counsel for plaintiff believes the only way to finish the settlement of this
12 case is to have the court assign this matter to a magistrate judge for mediation as soon as
13 possible. The parties stipulate that defendant DLT is not required to have any
14 representative of the company present for the mediation other than their attorney of
15 record, as the issue is between plaintiff and the Longshore/workers compensation
16 carrier.

17 7. This case currently has a case management conference set for December
18 21, 2006 at 2:30 p.m. In light of the further extension DLT has to answer the
19 Complaint, it is stipulated that the case management conference is continued to January
20 25th at 2:30 p.m.

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2 9. The joint case management conference statement shall be due on January
3 16th, 2007.

4 I hereby attest that I have on file all holograph signatures for any signatures
5 indicated by a “conformed” signature (/S/) within this e-filed document.
6

7 Dated: December 14, 2006

THELEN REID & PRIEST LLP

8
9 By /s/ Lynn R. Fiorentino
10 Paul V. Lankford
11 Lynn R. Fiorentino
12 Attorneys for Defendant
13 DORMAN LONG TECHNOLOGY
LIMITED

14 Dated: December 14, 2006

15 THE ARNS LAW FIRM

16
17 By /s/ Morgan C. Smith
18 Morgan C. Smith
19 Attorneys for Plaintiffs
20 ROBERT CLICK and MARIE CLICK
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PROPOSED ORDER

PURSUANT TO THE ABOVE STIPULATION, IT IS SO ORDERED as follows:

1. The parties to this action are hereby ordered to mediation before a court designated Magistrate Judge at the earliest available date. The court further orders that a representative of National Union Fire Insurance Company with the authority to settle its lien, and their counsel ADELSON, TESTAN, BRUNDO & POPALARDO, be present at the mediation, or face its lien being ordered void by a ruling of this court.

2. A company representative for defendant DLT need not be present at the mediation in light of the pending settlement offer. However, counsel for DLT shall be present to confirm any settlement on the record.

3. The case management conference scheduled for December 21, 2006 shall be continued until January 25th at 2:30 p.m.

4. The joint case management conference statement shall be due on January 16th, 2007.

5. Defendant DLT shall have an extension of time to answer to the complaint through January 25th, 2007.

Dated: 12/15/06 _____

